BUNNING LIFTS HOLD ON SAFER MEDICAL DEVICES . . . begins on page one

workers is far more important that helping a Kentucky manufacturer.

Prior to Bunning's reconsideration of his hold, SEIU President Andrew Stern said in a released statement, "Hundreds of health care workers will be infected with hepatitis C or HIV unless the bill passes before the session ends," and added, "We hope that Sen. Bunning will do the right thing and lift his hold on this bill."

After the hold was lifted late last Thursday, an SEIU source said the union is "delighted" over Bunning's action and added the senator had been put under a "tremendous amount of grassroots pressure" by Kentucky organizations representing health care workers. The source also speculated that there had been some communication between OSHA and Bunning's office concerning whether or not devices such as the one produced by MedPro (the Kentucky-based manufacturer) would count as safer medical devices as defined in the bill.

The issue attracted the attention from the national media. An Oct. 6 article in *The New York Times* focuses on the differences between Bunning and the bill's original sponsor Rep. Cass Ballenger (R-NC). Ballenger said, "I just wish (Bunning) would open his eyes and see it as everybody does."

The story also describes that while Bunning has bowed to the wishes of a company from Kentucky, Ballenger refused to alter the language of his bill for businesses that would benefit from such a rewrite. "If I try to do it for one, I'm going to have to do it for all," the lawmaker stated.

MedPro believes the language of Ballenger's bill would encourage specific technology that does not include the company's needle destruction device, which is why the business contracted Bunning. In a released statement MedPro said, "The senator shares our concern that, as currently written, the direction to the Federal [OSHA] indicates a preference for safe needle technology and needleless systems in the workplace over all other FDA cleared or approved needlestick reduction technologies.

"We are deeply grateful to the senator for his efforts. Without his assistance, this important issue would not have received the full airing it deserves since there has been no time for the Senate to hold a hearing on the House bill. The suggested changes are designed exclusively to promote the use of safe and effective risk reducing technology and procedures and provide both employers and employees with access to all such devices.

"We continue to hope that an agreement can be reached so that when this legislation is enacted, employers will know that they have access to a broad spectrum of safety devices, and that all their employees will be protected, regardless of their role in the delivery of patient care."

Ballenger stated his bill includes language that says just that. In Oct. 3 comments on the House floor, the lawmaker said, "In fact, this legislation is crafted not to impede, but to encourage technological development by encouraging the use of new devices. It is left to the employer to evaluate the effectiveness of these available devices ... it is careful not to favor the use of a specific device."

Other congressmen applauded Ballenger for this approach. In his speech on the floor, Rep. John Isakson (R-GA) said he and other lawmakers "have understood the leadership that has been shown in this by not issuing a franchise to one single producer of a product that destroys needles, but rather to acknowledge that every hospital and health care facility should select those products that are best for them, to have a clear and direct policy to minimize and we hope eliminate needlestick injuries and the transfer of possible dangerous germs and disease in the facility."

Observers say although the hold is lifted, it is still up in the air whether the Senate will vote on the bill this year as time is running out in this congressional session. There has been no confirmation from Senate sources as to whether or not the measure will be brought to the floor this year and while some labor officials feel optimistic that there will be a vote this session, others have stated they believe the issue will not be decided before the end of the 106th Congress.

HOUSE DEMOCRAT URGES OSHA TO MOVE FORWARD ON ITS IAQ PROPOSAL

A congressional Democrat is urging OSHA to move forward with its rulemaking on indoor air quality (IAQ), claiming "it is difficult to understand" why the agency has not moved to finalize a regulation it proposed six years ago.

In letters to OSHA (reprinted below), Rep. Barney Frank (D-MA) expresses his disappointment that the agency has not moved on IAQ. In a May 17 letter to OSHA administrator Charles Jeffress, Frank said, "I recently learned that it has been six years since OSHA began its procedures regarding the promulgation of a rule involving smoking in the workplace. It does seem to me that this is a very long time for such a matter to be pending..."

Jeffress in a July 24 response, said, "We can assure you that OSHA is deeply concerned about the adverse health effects associated with exposure to Environmental Tobacco Smoke (ETS) in the workplace." Jeffress says OSHA must review the rulemaking in depth and notes that the agency has funded three workshops that addressed ETS risk assessment, ETS exposure assessment, and ventilation engineering controls."

OSHA is currently deliberately about the "complicated scientific issues associated with the regulation of ETS, which has proven to be a time-consuming effort," according to Jeffress.

Frank was clearly not satisfied with Jeffress' letter and quickly responded with a Sept. 11 letter that stated, "I am writing to express my disappointment with your response to my letter ... I am still convinced you should be moving

PM3006519757

Source: https://www.industrydocuments.ucsf.edu/docs/rjgj0001

more quickly to conclude this matter. I therefore urge you again to take immediate steps toward issuing a rule in this area."

OSHA's lack of progress on IAQ has also attracted criticism from an advocacy group. Action on Smoking and Health (ASH) unsuccessfully sued OSHA for its inaction on IAQ and is planning to file another lawsuit on the issue in the near future. An ASH official told *Inside OSHA* that this lawsuit will be filed before Election Day.

ASH's lawsuit will compare OSHA's pursuit of an ergonomics standard to its work on IAQ. ASH claims OSHA's fast timetable on ergonomics shows that the agency can move quickly on regulations when it wants to. Furthermore, OSHA committed to finalizing the ergonomics rule this year when it was expecting about the same amount of comments that IAQ attracted, according to ASH. OSHA subsequently received much fewer comments on ergonomics than IAQ.

After being provided the correspondence between OSHA and Frank, an ASH official said the agency's rationale in the letter to the lawmaker is a "smokescreen." The source suggested that there is a major difference between OSHA personnel working on ergonomics and personnel devoted to IAQ.

A spokesperson for Frank said OSHA has not yet responded to the congressman's Sept. 11 letter. The spokesperson said Frank became interested in this issue after a constituent brought the matter to his attention.

The following is the text of the correspondence between Frank and OSHA on IAQ.

Correspondence Between Rep. Frank and OSHA on IAQ

May 17, 2000

The Honorable Charles N. Jeffress
Assistant Secretary for
Occupational Safety and Health
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Secretary Jeffress,

I recently learned that it has been six years since OSHA began its procedures regarding the promulgation of a rule involving smoking in the work place. It does seem to me that this is a very long time for such a matter to be pending, and I urge you to take prompt action on this matter. It is difficult to understand why this decision should have taken so long to make, and I believe you would do a great deal to restore confidence in government if you were to come to a prompt resolution of this matter.

Barney Frank

July 24, 2000

The Honorable Barney Frank
U.S. House of Representatives
Washington, D.C. 20510-2104

Dear Congressman Frank:

Thank you for your letter dated May 17, 2000, requesting that the Occupational Safety and Health Administration (OSHA) move forward with the proposed rulemaking on Indoor Air Quality (IAQ), published in 1994. OSHA's proposal included provisions for the control of specific contaminant sources, such as Environmental Tobacco Smoke (ETS). The Agency summarized the available information on the health effects of ETS in the proposed IAQ standard. By publishing the IAQ proposal, the Agency formally recognized that ETS can cause a wide range of adverse health effects.

We can assure you that OSHA is deeply concerned about the adverse health effects associated with exposure to ETS in the workplace. We must also, however, review the record of public comment on this rulemaking in depth. The administrative record contains comments received from both proponents as well as opponents of Agency action on this issue.

OSHA has continued to progress on the IAQ rulemaking ever since the administrative rulemaking record closed. In the promulgation of new standards, OSHA must always follow very specific procedures for public review and comment, including holding public hearings. The public hearing on the IAQ proposal lasted seven months, which is the longest hearing in OSHA's history. In addition, the record of this rulemaking is the largest in OSHA's history. Most of the comments in the record address the ETS provisions of the proposal.

The Agency has recently taken significant steps and made substantial

SUBSCRIPTION ORDER FORM

☐ Sign me up to receive *Inside OSHA* at $725 per year in the U.S. and Canada; $775 per year elsewhere (air mail).

Name _____
Affiliation _____
Address _____
City/State/Zip _____
Phone _____
E-mail _____
Signature _____

To order by mail: Send this coupon to *Inside OSHA*, P.O. Box 7167, Ben Franklin Station, Washington, DC 20044.

To order by phone, fax or e-mail: Call 800-424-9068 (in the Washington, DC area, 703-416-8500). Fax to 703-416-8543. E-mail at custsvc@iwpnews.com

Please check one:
☐ Visa ☐ Bill me
☐ MasterCard ☐ Check enclosed
(DC subscribers add 5.75% sales tax)

Card number _____
Name on the card _____
Exp. date _____

PM3006519758

Source: https://www.industrydocuments.ucsf.edu/docs/rjgj0001